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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/069,361	06/05/2002	Yoram Alroy	ALROY=2	8129
1444	7590	04/13/2006	EXAMINER	
BROWDY AND NEIMARK, P.L.L.C. 624 NINTH STREET, NW SUITE 300 WASHINGTON, DC 20001-5303			MULLEN, KRISTEN DROESCH	
			ART UNIT	PAPER NUMBER
			3766	

DATE MAILED: 04/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/069,361

Applicant(s)

ALROY, YORAM

Examiner

Kristen Mullen

Art Unit

3766

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 4/3/06 (Response).
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 16, 17 and 29-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 16 and 17 is/are allowed.
- 6) ☒ Claim(s) 29-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2/25/02 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |  |
|--|--|
| <p>1) <input type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br/>Paper No(s)/Mail Date _____</p> | <p>4) <input type="checkbox"/> Interview Summary (PTO-413)<br/>Paper No(s)/Mail Date. _____</p> <p>5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6) <input type="checkbox"/> Other: _____</p> |
|--|--|

### DETAILED ACTION

1. The finality of the last office action is withdrawn. Applicant's amendment after-final has been entered.

#### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 29-41 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 29 recites the limitation "the leads V1 and V2" in line 8. There is insufficient antecedent basis for this limitation in the claim.

#### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 29-30, 33, 35-39 and 41 are rejected under 35 U.S.C. 102(b) as being anticipated by Fuller (3,409,007).

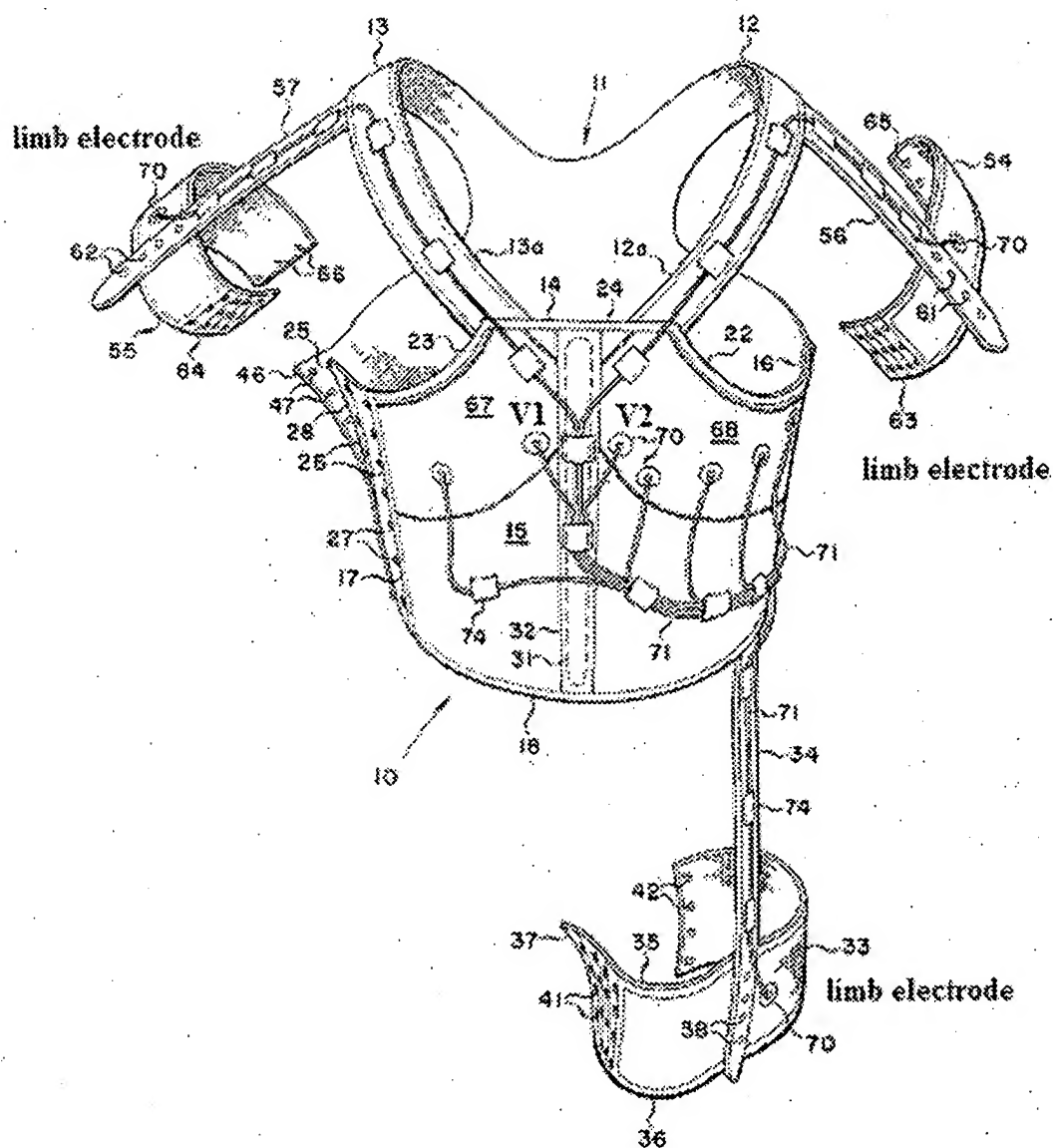
Fuller shows an electrode assembly comprising: a thin, flexible electrode support that is foldable into a compact unit prior to or after use (it is made of resilient elastic cloth and the wire conductors and electrodes can be removed from the electrode assembly), said electrode support supporting at least six electrodes (70) wholly constructed on the electrode support in proper

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mutual spaced relationship for producing electrical contact each with a correct respective area of the patient's chest when electrodes V1 and V2 are substantially symmetrically disposed about his or her vertebrae for producing a 12-lead electrocardiogram when the electrode assembly is placed flat against the patient's chest; and limb electrodes (located on bands 33, 54, 55) fixedly attached at one end thereof to the electrode support and having a second end displaceable from the electrode support for locating proximate a patient's limb (Fig. 1 annotated below; Col. 3, lines 35-54; Col. 4, line 68-Col. 5, line 13; Col. 5, lines 37-59).

The information listed in the parenthesis has not been considered as a limitation to the claims.

Assuming arguendo that the electrode assembly is not foldable because the securement panel (28) is a relatively non-resilient cloth member, or because stay member (31) is made of plastic or metal, the examiner believes that the electrode assembly could be folded about the securement panel and stay member and still form a relatively compact unit.



Regarding claims 30 and 41, the recitation that the electrode assembly is embedded (i.e. snugly enclosed) within a wallet is a statement of intended use. The specification does not disclose that the foldable sections are embedded in the wallet in the sense that they are integral with the wallet, but rather disclosed how the electrode assembly can be connected and

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disconnected to the wallet via a connector (22). As such, the electrode array embedded within a wallet is an intended use.

Claim 33 is considered a product-by-process limitation. “[E]ven though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process.” In re Thorpe, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985). M.P.E.P. 2113.

Claims 35 and 37 are considered to be statements of intended use since there is no additional structure set forth.

Regarding claim 36, Fuller further shows a connector (73) (Fig. 2).

With respect to claims 38-39, Fuller shows an ECG signaling device including a vocalizing unit (Col. 5, line 74-Col. 6 line 5; Col. 2, line 14-33)

The information listed in the parenthesis has not been considered as a limitation to the claims.

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***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fuller (3,409,007). Fuller is as explained before. Although Fuller fails to show digital circuitry, the use of digital circuitry in place of analog circuitry is well known in the electrocardiography art. It would have been obvious to one with ordinary skill in the art at the time the invention was made to utilize digital circuitry since it is well known in the electrocardiography art.

***Allowable Subject Matter***

8. Claims 16-17 are allowed.

9. Claims 31, 32 and 34 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

10. Applicant's arguments with respect to claims 29-41 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristen Mullen whose telephone number is (571) 272-4944. The examiner can normally be reached on M-F, 10:30 am-6:30 pm.

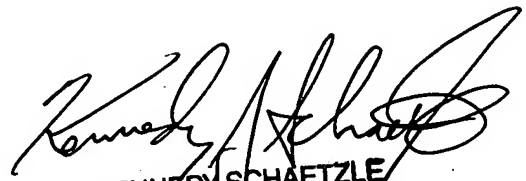
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

kdm

*Kirsten Mullen*

  
KENNEDY SCHAETZLE  
PRIMARY EXAMINER  
4/11/06